

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 237

Introduced by Combs, 32

Read first time January 10, 2005

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to workers' compensation; to amend sections
2 48-125 and 48-1,102, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to awards or
4 judgments against the state; to harmonize provisions; and
5 to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-125, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-125. (1) Except as hereinafter provided, all amounts
4 of compensation payable under the Nebraska Workers' Compensation
5 Act shall be payable periodically in accordance with the methods of
6 payment of wages of the employee at the time of the injury or
7 death. Fifty ~~7~~ ~~except that fifty~~ percent shall be added for
8 waiting time for all delinquent payments (a) after thirty days'
9 notice has been given of disability, (b) ~~or after~~ thirty days ~~from~~
10 after the entry of a final order, award, or judgment of the
11 compensation court, or (c) thirty days after the effective date of
12 the legislative bill appropriating any funds required to be
13 reviewed under section 48-1,102. Such payments shall be sent
14 directly to the person entitled to compensation or his or her
15 designated representative except as otherwise provided in section
16 48-149.

17 (2) Whenever the employer refuses payment of compensation
18 or medical payments subject to section 48-120, or when the employer
19 neglects to pay compensation for thirty days after injury or
20 neglects to pay medical payments subject to such section after
21 thirty days' notice has been given of the obligation for medical
22 payments, and proceedings are held before the Nebraska Workers'
23 Compensation Court, a reasonable attorney's fee shall be allowed
24 the employee by the compensation court in all cases when the
25 employee receives an award. Attorney's fees allowed shall not be
26 deducted from the amounts ordered to be paid for medical services
27 nor shall attorney's fees be charged to the medical providers. If
28 the employer files an application for review before the

1 compensation court from an award of a judge of the compensation
2 court and fails to obtain any reduction in the amount of such
3 award, the compensation court shall allow the employee a reasonable
4 attorney's fee to be taxed as costs against the employer for such
5 review, and the Court of Appeals or Supreme Court shall in like
6 manner allow the employee a reasonable sum as attorney's fees for
7 the proceedings in the Court of Appeals or Supreme Court. If the
8 employee files an application for a review before the compensation
9 court from an order of a judge of the compensation court denying an
10 award and obtains an award or if the employee files an application
11 for a review before the compensation court from an award of a judge
12 of the compensation court when the amount of compensation due is
13 disputed and obtains an increase in the amount of such award, the
14 compensation court may allow the employee a reasonable attorney's
15 fee to be taxed as costs against the employer for such review, and
16 the Court of Appeals or Supreme Court may in like manner allow the
17 employee a reasonable sum as attorney's fees for the proceedings in
18 the Court of Appeals or Supreme Court. A reasonable attorney's fee
19 allowed pursuant to this section shall not affect or diminish the
20 amount of the award.

21 ~~(2)~~ (3) When an attorney's fee is allowed pursuant to
22 this section, there shall further be assessed against the employer
23 an amount of interest on the final award obtained, computed from
24 the date compensation was payable, as provided in section 48-119,
25 at a rate equal to the rate of interest allowed per annum under
26 section 45-104.01, as such rate may from time to time be adjusted
27 by the Legislature. Interest shall apply only to those weekly
28 compensation benefits awarded which have accrued at the time

1 payment is made by the employer. If the employer pays or tenders
2 payment of compensation, the amount of compensation due is
3 disputed, and the award obtained is greater than the amount paid or
4 tendered by the employer, the assessment of interest shall be
5 determined solely upon the difference between the amount awarded
6 and the amount tendered or paid.

7 Sec. 2. Section 48-1,102, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-1,102. Any award to a claimant and any judgment in
10 favor of a claimant under sections 48-192 to 48-1,109 shall be
11 certified by the Attorney General to the Risk Manager and to the
12 Director of Administrative Services. The Director of
13 Administrative Services ~~7~~ ~~who~~ shall promptly issue his or her
14 warrant for payment of such award or judgment out of the Workers'
15 Compensation Claims Revolving Fund, if sufficient money is
16 available in such fund, except that no portion in excess of fifty
17 thousand dollars of any award or judgment shall be paid until such
18 award or judgment has been reviewed by the Legislature and specific
19 appropriation made therefor. Any portion of an award or judgment
20 in excess of fifty thousand dollars shall be delivered by the Risk
21 Manager to the chairperson of the Business and Labor Committee of
22 the Legislature at the next regular session of the Legislature
23 convening after the date the award or judgment becomes final and
24 nonappealable. Delivery of any warrant in satisfaction of an award
25 or judgment shall be made only upon receipt of a written receipt by
26 the claimant in a form provided by the Attorney General.

27 Sec. 3. Original sections 48-125 and 48-1,102, Reissue
28 Revised Statutes of Nebraska, are repealed.